

WISCONSIN RIVER RAIL TRANSIT COMMISSION

EXECUTIVE COMMITTEE MEETING - FRIDAY, FEBRUARY 7, 2014 @ 10AM
 DANE COUNTY HWY GARAGE, 2302 FISH HATCHERY RD, MADISON, WI

1. 10: 05 AM **Call to Order** – *Alan Sweeney, 1st Vice Chair*

2. Roll Call. **Establishment of Quorum** – *Mary Penn*

Crawford	Tom Cornford, 3 rd Vice Chair (XCom)	excused	Rock	Ben Coopman, Alternate	
	Rocky Rocksford			Wayne Gustina	x
	Vacant			Alan Sweeney, 1 st Vice Chair (XCom)	x
		Terry Thomas		x	
Dane	Gene Gray, Treasurer (XCom)	x	Sauk	Marty Krueger, Alternate	
	Jim Haefs-Fleming			Carol Held	
	Chris James	x		John Miller	x
		Dennis Polivka, Asst. Secretary (XCom)		x	
Grant	Gary Ranum	x	Walworth	Jerry Grant	
	Vern Lewison	excused		Richard Kuhnke, 4 th Vice Chair (XCom)	
	Robert Scallon, 2 nd Vice Chair (XCom)	x		Allan Polyock	
Iowa	Charles Anderson, Secretary (XCom)	excused	Waukesha	Karl Nilson, Chair (XCom)	x
	William G Ladewig			Dick Mace	
	Jack Demby			Fritz Ruf	
Jefferson	John Molinaro	x			
	Ben Wehmeir	x			

Executive Committee met quorum.

Others present for all or some of the meeting:

<ul style="list-style-type: none"> Mary Penn, WRRTC Administrator Jim Matzinger, Dane County Forrest Van Schwartz, pro bono consultant 	<ul style="list-style-type: none"> Alan Anderson, Pink Lady RTC Ken Lucht, WSOR Kim Tollers, Roger Larson, WDOT
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3. Action Item. **Certification of Meeting’s Public Notice** – *Noticed by Penn*

- Motion to approve public notice of meeting – Polivka/Thomas, Passed Unanimously*

4. Action Item. **Approval of Agenda** – *Prepared by Penn*

- Motion to approve agenda with corrections – Gustina/Nilson, Passed Unanimously*

Prior to the motion, Penn reported that agenda item 13 needed to be amended to read “Re-approval of approved 2013 December Meeting Minutes” as the December minutes had been approved at the January 2014 meeting and were therefor not “draft”.

5. Action Item. **Approval of draft January Meeting Minutes**– *Prepared by Penn*

- Motion to approve draft January Meeting Minutes with corrections – Polivka/James, Passed Unanimously*

6. Updates. **Public Comment** – *Time for public comment may be limited by the Chair*

No public comments.

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7. Updates. **Correspondence & Communications** – *Discussion may be limited by the Chair*

Penn distributed an article submitted by Forrest Van Schwartz, reported on the correspondence she had had in the past month, and Van Schwartz notified the Committee of his part of an article on railroading in the latest issue of Governing magazine.

8. Updates. **Announcements by Commissioners** – *No Discussion Permitted*

Chris James extended his thanks to WSOR for their response to a situation on the Nine Springs Creek Bridge. He said WSOR had been very helpful and timely. Karl Nilson announced that the Madison Toy Train event would be next week: the 15th and 16th.

REPORTS & COMMISSION BUSINESS

9. **WRRTC Financial Report** – *Jim Matzinger, Dane County CPA / WRRTC Accountant*

- Treasurer's Report for January and Payment of Bills

Jim Matzinger gave his report, saying nothing much had changed other than a payment due to Dane County for his accounting services. Dennis Polivka asked Matzinger about expenses, wanting to know more about the bad debt. Matzinger explained the bad debt. Matzinger said that all the accounts were billed for construction funds and since Crawford County had not paid for a few years he did not want a big negative on the books in one year; if the Commission did not collect, it would not hit them badly; if Crawford paid it would be a bonus. Robert Scallon commented that they had paid.

Bill to be paid: Dane County for Accounting Services, \$322.92

- *Motion to approve the Treasurer's Report – Gray/Gustina, Passed Unanimously*
- *Motion to pay bills – Nilson/Scallon, Passed Unanimously*

10. **Wisconsin & Southern Railroad's Report on Operations**

Ken Lucht reported that the cold weather had made it a slow time for maintenance work but noted there had been only a few rail breaks from the cold.

He announced that the next round of FRPP grants were due and that WSOR had submitted two, one for \$14 M for bridge replacements system wide. He said that 14 bridges were currently identified which were now in critical (priority 2) condition. He said that \$13 M is for a single bridge, the Spring Green Bridge. Lucht said WSOR would talk with WDOT about the funding for this project. He said \$13 M was a lot of money for one bridge but it cannot be taken out of service. He suggested phased in component replacement could happen. Piers are settling but the pile caps are crushing under the loads

The other application is for a major rehabilitation between Avoca and Crawford on the Prairie Sub which will require 36,000 ties. This work is to prepare the corridor for continued welded rail (CWR). He said this was a 2 year phased project, acknowledging that he knew the UP acquisition required WDOT to withhold money for grants.

In current projects, Lucht reported that the Milton 8500' sidetrack in Janesville had a signed grant agreement with the State. He said work between Janesville and Avalon was finishing up and that there is a grant agreement for that work.

For the Evansville line, Lucht reported that WSOR had run into some issues with the project. He said there were a lot of moving parts and one of those was common carrier rights (CCR) as provided by the Surface Transportation Board (STB). Right now Oregon and Fitchburg had the common carrier rights which they were not aware of until 2 months ago. For WSOR to operate on the line they need those rights. Lucht said two weeks ago WSOR was informed that Oregon may be ready to grant CCR but Fitchburg was "waffling". There were some upcoming meetings between the municipalities to address the issue. He noted that these communities were part of the WRRTC grant agreements. Apparently the municipalities were still looking for a formal proposal from WRRTC and WSOR. He said the communities did not know if they wanted to continue to own the track and said at some point next month he believed there would have to be action on Oregon /Fitchburg to handle ownership of the corridor and the CCR. The communities were ignorant of this process or how to provide service to Oregon for this construction season. Lucht said the letter requesting rail service from the WRRTC was received in December but WSOR could not submit their intent to provide service to the Commission because of this situation. He said that Eileen Brownlee had talked to the community's corporation counsel yesterday. He said that the grant to rehabilitate the line was granted and that the bids had gone out and were much too high so WSOR had decided to do the work themselves. In the last couple of days, Lucht said WSOR was scrambling to put together a license agreement which would allow WSOR access to the corridor to do this rehab work. In the meantime, the Lycon facility in Oregon needed the rail as the facility was completed, producing, and needing rail service. Lucht said WSOR would continue to work with the communities. He said there are differences between Fitchburg and Oregon, with Fitchburg thinking more of passenger rail and trails. Lucht said he did know there were some recreation groups putting pressure on community leadership and acknowledged that local control is an issue. He said the letter of intent would be received by the Commission when WSOR got confirmation of the CCR from Oregon and Fitchburg. He said

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WSOR would not spend one dollar until they had reassurance from Oregon and Fitchburg and noted that there might need to be an action item on this issue of CCR next month on the agenda.

Nilson asked about the obligations of freight and the responsibility of the communities to provide service. Lucht said that the communities were putting themselves at risk, there were issues of benefits, safety, and training and said that Oregon and Fitchburg should talk to a railroad attorney to get some unbiased advice. Gene Gray asked about the ballpark assessment for the work necessary to get the line working. Lucht said that it was a \$2.8 M project to get it to Class II status. Van Schwartz said he thought the agreements with the towns reverted the operation of the track to the Commission with operating rights assumed to be taken by WSOR. Van Schwartz said the towns could contract out to WSOR for service but Lucht said WSOR was not interested in that.

Lucht next reported that In McFarland WSOR had come to terms on the Milwaukee Street safety issue as it impacted access to a school. He said without any viable options WSOR would have had to close the crossing but the Village came back with some good ideas. He said all south bound lanes were going to be shut down, and gates and lights would be installed. Lucht said this had been a very good partnership and compromise and the hope was to start work this year to make this crossing safer.

Lucht reported there was an expanded customer in Avalon, Gavalon Grain. He said the business had expanded significantly on the Fox Lake sub and that there was a grain unit train loading facility with 15 new jobs now. He said since October they had hauled four unit trains of corn, with some heading into Janesville. Lucht said he would like to bring WSOR's marketing director to the Commission's March meeting to discuss their efforts.

Lastly, Lucht reported on the upcoming financial report, as the Commission and WDOT must get a financial report. He said the last time it was done, the CFO and Tim Karp presented to WDOT and some Commissioners. He said that WSOR was planning a time to host this again at WDOT and he anticipated it would be early March. Lucht said in the agreement it required an opportunity to see the report. He advised that they keep their attendance small so there would be no quorum issue. He suggested the chair, co-chairs, perhaps Jim Matzinger, and perhaps Gene Gray (Treasurer) as attendees. Lucht said he would follow up with Penn and the co-chairs to appoint. Alan Sweeney said he, Gray, and Jim Matzinger would attend. Van Schwartz suggested he go too. Gary Ranum asked if there was a possibility after the fact that there could be a closed session of the information presented. Sweeney said Brownlee would have to be asked about that but that probably the operator would not be comfortable doing that. Lucht said the biggest reason is Brownlee would need a reason for a closed session, adding that this had been tried before and it did not work but Alan repeated that Brownlee could be asked.

Nilson asked Lucht about one of the projects and whether there were slow orders today. Lucht said they were in place and it slowed service. He reiterated the speed limits and the repercussions of temperature extremes on the rail.

Lucht said that the last thing was that new Gavalon Grain operation had purchased a new engine as there was enough track for an engine to run around the facility.

11. WDOT Report– Kim Tollers, WDOT

Kim Tollers reported that Frank Huntington was still gone on vacation and noted the Reedsburg line had an accepted offer with the agreement language being hashed out and moving along. She said she was not at liberty to say the price but said the attorneys had been talking with Huntington and trying to keep this acquisition moving along. She said she did not know when it would happen but was confident that Huntington could update them soon.

Tollers said there had been an abandonment filed with the STB on the Waxdale spur. She said the WDNR was interested in interim trail use but said that WDOT had been contacted by Frontier Rail, a shortline operator in Chicago. She said the WDNR would go forward expressing their interest to the STB but there was this potential buyer and being so close to Racine, Tollers commented there would probably be customers. She added that the bulk of the line was in trail right now. She said WDOT would have to stay tuned. Tollers said the potential buyer was considering an offer for financial assistance and "if he's viable it will happen and if not, it won't".

12. WRRTC Administrator's Report – Mary Penn, WRRTC Admin.

Penn reported that she had a contract for joinder for Jefferson County Board to join, as well as the formal Resolution for Jefferson County to join the WRRTC approved by the Commission in January for the Chair to sign. She noted that she had been working with a contact for agenda item 15 and would more fully explain the project's progress at that part of the meeting.

13. Re-approval of draft December Meeting Minutes– Mary Penn, WRRTC Admin.

Penn explained that Dick Mace had found some errors on item 18 of the December approved WRRTC minutes after they had been approved in January. The discussion of item 18 had been complex and there had been multiple votes involved. Mace and Penn had worked to resolve the correct order of actions. Penn said she had sent the corrected language to the Commission.

- *Motion to re-approve the December 2013 minutes – Scallon/Gustina, Passed Unanimously*

14. Discussion and Possible Approval of WRRTC’s co-sponsorship of the application for the TIGER VI Funding Cycle. –

Ken Lucht, WSOR

Lucht explained the history of the past two attempts to get a TIGER grant (IV and V) from the federal government. He asked if the Commission would, for the 3rd year in a row, support the project. He said last year they had followed up with the Department of Transportation and said their application was the only one of five that made it to the Executive level that was not approved. Lucht was hoping that the third time was the charm. He said the scope of the project would remain as it had been in the last attempt and the total project costs, \$30 M, would remain the same. He said this was strictly a partnership between federal government, WATCO and the State of WI so there was no financial commitment on the part of the Commission or Iowa County (the co-applicants). Sweeney asked if the Spring Green Bridge could be part of the project. Lucht said in order to make this an attractive application, they did not want to ask for too much as it could lower their chances as there was only so much money available. He noted that WSOR needed to make sure that any new cost in the application be balanced by benefits

- *Motion to co-sponsor an application for the TIGER VI grant – Polivka/Ranum, Passed Unanimously*

Alan Anderson advised that they need to show it all wrapped together, showing their commitment. Gray asked about the bridge speed and Lucht reminded the Committee that there had been a derailment in 2012 related to the bridge. Van Schwartz said the bridge was 2200’ long, 76 spans.

15. Discussion and Possible Approval of Comcast Aerial Utility Installation at M.P. 52.56, Fox Lake Sub, Burton Township, Village of Spring Green, McHenry County, Illinois – Della Timmerman, Jorge Samano, ESPO Corp.

Penn distributed the handout and explained the background of the item, saying it was really more of an issue of procedure. She noted that the representatives of the company could not attend which was why she was addressing the Committee. Basically, Comcast had requested putting a cable over the track. Penn then explained what she had learned about utility permits in Illinois, noting that by Illinois law, a property owner could not deny access. She also said the WRRTC fee schedule did not stipulate a fee for this work, suggesting to her that each permit would be a fee based on a project. Since Illinois law says the Commission could only receive \$1500.00 as fee, it might be a higher amount than could be negotiated. She said the permit application fee of \$300 had been paid but noted the permit was not explicit for Illinois and that she was grateful for the help she had gotten from Roger Larson and Eileen Brownlee. Sweeney asked Lucht for his input. Tollers said the issue about permitting is that it documents what is there and what you are able to tell a purchaser. She emphasized that the permit needs to cover you and said you could just accept plans and put them on file but it was better to protect the whole process and document it. Lucht agreed and said in retrospect overhead cable is a lot less intrusive and as long as they met local and state statutes it should not be an issue. He said once the permit was in place, WSOR would need to be notified by the contractor as to the flagger times/costs for the project. He said there are daily trains in this area. Sweeney said the application could take care of the cost of filing and Lucht said the applicant would take care of the flagging costs. Roger Larson suggested that Comcast or their contractor notify ICC as to this project and permit. He also pointed out that the aerial cables would be built to national standards. Sweeney said they should approve the application and let the process go on. Larson said for the utilities in Illinois, you simply filled out a form of what you proposed to do. Polivka and Gray both asked Penn who got the crossing fee and she clarified that the WRRTC was paid the fee as they are the landowner of the track in Illinois.

- *Motion to approve the Comcast Aerial Utility permit pursuant to payment of crossing fee – Thomas/Ranum, Passed Unanimously*

16. Action Item. Adjournment

- *Motion to adjourn at 11:13 AM – Gustina/Thomas, Passed Unanimously*